

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

VICTORIA JOHNSON,)	CASE NO. 1:13-CV-2012
)	
Plaintiff,)	JUDGE DONALD NUGENT
)	
v.)	
)	
UNIVERSITY HOSPITALS,)	
)	
Defendant)	

MOTION FOR LEAVE TO COMMENCE LIMITED DISCOVERY

Now comes the plaintiff, by and through counsel, and moves this Honorable Court for leave to commence with limited discovery that was initially commenced before the removal of this case to this Court.

For cause, this case was originally filed in Cuyahoga County Common Pleas Court. On August 14, 2013, shortly after the complaint was filed, several subpoenas was accompanying medical releases executed by the plaintiff were issued from the Common Pleas Court and served upon several medical providers who saw and/or treated the plaintiff during the time period at issue in this case (including a fitness-for-duty evaluation). Copies of these subpoenas are attached.¹ The compliance date for all of these subpoenas was August 24, 2013.

Only one of the providers has complied with the subpoena issued to him (Dr. Headon). Prior to the removal of this case, defense counsel had represented in correspondence dated

¹ Subpoenas were issued to: Dr. Edward Dutton; Dr. James Pallas; Kathy Springer (University Hospitals Case Medical Center); and Dr. David Headon.

September 4, 2013, that she would coordinate the responses to the subpoenas issued to Dr. Pallas and Ms. Springer (attached). Correspondence from Dr. Pallas further confirmed that defense counsel would be arranging for his response and Ms. Springer's response as well (attached). Despite defense counsel's representations, however, the documents requested in those two subpoenas have not been provided. No response has been received from Dr. Dutton. There were no objections to any of the subpoenas from defendant or from the various medical providers, and the records sought are clearly within the scope of permissible discovery and relevant to the issues in this case.

In light of the removal of this case to this Court, plaintiff cannot seek enforcement of the state-court subpoenas as the Common Pleas Court now lacks jurisdiction over this matter. Accordingly, plaintiff respectfully requests leave to re-issue the subpoenas to the three providers who did not respond to the original subpoenas. Defendant will not be prejudiced by the granting of this motion. Indeed, in light of the fact that defense counsel has previously promised to coordinate responses to two of the remaining subpoenas, there should be no basis for any objection to this motion by the defense.

s/Mark P. Herron

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CERTIFICATE OF SERVICE

I certify that on September 13, 2013, a copy of the foregoing was filed electronically.

Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

Parties may access this filing through the Court's system.

s/Mark P. Herron

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